

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CRIMINAL CASE NO. 3:90cr78**

UNITED STATES OF AMERICA,)
)
)
)
vs.) **ORDER**
)
)
DONALD DEVAN EDWARDS.)
)

THIS MATTER is before the Court on *sua sponte* to clarify the Defendant's status with regard to his eligibility for any relief in connection with the so-called Crack Cocaine Amendment to the United States Sentencing Guidelines, Amendment 706.

Defendant has filed various motions to reduce his sentence, none of which pertain to the application of Amendment 706. Defendant was, however, identified as an incarcerated person whose eligibility for relief pursuant to Amendment 706 should be examined. For that purpose attorney Samuel Bayness Winthrop was appointed on August 13, 2008, to represent the Defendant. [Doc. 7].

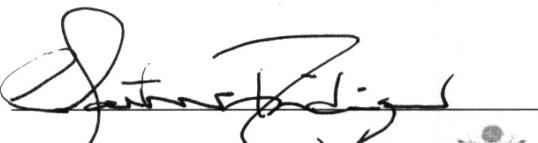
On December 29, 2008, attorney Winthrop, having investigated whether the Defendant might be eligible for any such relief, filed a Notice of Ineligibility of Reduction of Sentence pursuant to 18 U.S.C. §3582(c)(2).

[Doc. 9]. Attorney Winthrop advised that the Defendant does not qualify for any such relief pursuant to Amendment 706 because his conviction was in connection with powder cocaine, not cocaine base. [Id.].

On February 9, 2009, the United States Probation Office filed a Supplement to the Presentence Report Pursuant to the Crack Cocaine Guideline Amendment [Doc.11] in which it was noted that the Defendant was not held responsible for any cocaine base in connection with his conviction. As a result, the Amendment is not applicable to the Defendant. The record of the Defendant's subsequent motion pursuant to 28 U.S.C. §2255 also discloses that he was not held responsible for cocaine base. See, Edwards v. United States, 3:96cv342 [Doc. 21].

No motions are currently pending with regard to the Defendant's case.

IT IS, THEREFORE, ORDERED that the Defendant is not eligible for relief pursuant to the Crack Cocaine Amendment to the United States Sentencing Guidelines, Amendment 706.



Martin Reidinger
United States District Judge



Signed: February 9, 2009